

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 JOSHUA DALKE,

4 Plaintiff

5 v.

6 METRO POLICE DEPARTMENT,

7 Defendant

Case No.: 2:21-cv-00596-APG-DJA

**DISTRICT COURT'S RESPONSE TO
NINTH CIRCUIT'S REFERRAL
NOTICE**

[ECF No. 22]

8 The Ninth Circuit Court of Appeals has referred to me the question whether Mr. Dalke's
9 "in forma pauperis status should continue for this appeal or whether the appeal is frivolous or
10 taken in bad faith." ECF No. 22. I do not find this appeal to be taken in bad faith. 18 U.S.C.
11 §1915(a)(3). However, the appeal appears to me to be frivolous. Whether that is a sufficient
12 basis to revoke in forma pauperis status under the language of 18 U.S.C. §1915(a)(3), I leave to
13 the Ninth Circuit to decide. *Cf. Hooker v. American Airlines*, 302 F.3d 1091 (9th Cir. 2002).

14 This response is directed to the Ninth Circuit under Federal Rule of Appellate Procedure
15 24(a)(3)(A). The clerk of court shall serve this response upon the parties and the Ninth Circuit.

16 DATED this 15th day of March, 2022.

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18 ANDREW P. GORDON
19 UNITED STATES DISTRICT JUDGE
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